IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

COCP No. 1421 of 2007
Date of Decision: 15.10.2007

Rajesh Lamba ...Petitioner

Versus

Brijendera Singh and others ...Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri Dinesh Pandey, Advocate, for the petitioner.

HEMANT GUPTA, J.

At the outset, learned counsel for the petitioner was informed that I was representing M/s R.C. Sood and Company before this Court as an Advocate, the reference of which has come in the order passed. Learned counsel for the petitioner has pointed out that he has no objection in my entertaining the present petition as the interest of the present petitioner in the present suit, is not in conflict with the interest of M/s R.C. Sood and Company.

The plaintiff-petitioner filed a suit for declaration to the effect that action of respondent No.2 i.e. Sub Registrar, Faridabad in refusing to register the conveyance deed in respect of the plots of land in Kant Enclave, is unwarranted and illegal. Along with the suit, an application under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure was also filed.

The learned trial Court allowed such application,

whereby defendant No. 2 was directed to provisionally register the conveyance deed and in case the defendants arrive at the conclusion that the land is Sham Lat Deh, then a certificate under Sections 71 and 76 of the Registration Act, 1908 (for short `the Act') must be given to the plaintiff. It was further directed that the registration of the sale deed shall be provisional and subject to the decision of the present suit. The said interim order practically allows the suit of the plaintiff even though the sale deeds are said to be registered provisionally. The appeal filed by the defendants was partly accepted by the learned first Appellate Court on 12.3.2007.

The revision against the said order was allowed by this Court on 21.9.2007 and the order passed by the learned trial Court was restored with the modification that in case of refusal to register the conveyance/sale deeds in respect of the plots of the present case, the State shall issue a certificate as required under Sections 71 and 76 of the Act. The respondents were directed to provisionally accept and allow the registration of the conveyance deeds in respect of the plots of the lands of the plaintiffs without any impediment, in accordance with the provisions of the Act.

It is the case of the petitioner that since 1.10.2007 i.e. 10 days after the passing of the order by this Court, the petitioner has presented the conveyance deed for registration number of times, but the same has not been registered so far. Therefore, the inaction of the respondents in not registering the conveyance deed is willful disobedience to the orders passed by this Court and thus, the respondents are liable to be proceeded against in terms of the provisions of Contempt of Courts Act, 1971.

I have heard learned counsel for the petitioner at some

length and do not find any case for initiation of the contempt proceedings at this stage. The order was passed by this Court on 21.9.2007. The present petition has been filed on 11.10.2007 i.e. within less than three weeks of the order passed. The plaintiff has filed suit in which the interim orders were passed somewhere in the year 2000. Therefore, there is no tearing hurry for registration of the conveyance deeds without giving reasonable time to the respondents to seek compliance of the order after examining the legal issues and clarifications, if any, by the respondents from their administrative superiors.

Even otherwise, mere inaction on the part of the Government or its servants, does not disclose a civil contempt. The Full Bench of this Court in **Parkash Chand v. S.S. Grewal, Chief Secretary Punjab etc., (1974)2 ILR (P&H) 56**, has held to the following effect:-

> "Mere inaction on the part of the Government or its servants to take any action to reinstate a decree holder, whose dismissal has been declared to be void or ineffective and grant him all the benefits and privileges of his service, will not amount to contempt of Court, but if the conduct of the particular Government servant, whose duty it is to give effect to the decree, shows that he has wilfully and deliberately refrained from giving effect to the decision of the civil Court, a case of contempt of Court may arise. The essence of the offence of contempt of Court is wilful disobedience to any judgment, decree, direction,

order or writ of a Court and not mere inaction to give effect to it. The conduct of the alleged contemnor must be wilful showing deliberate and conscious disregard of the Court's order or a despising or disdainful attitude towards the verdicts of Courts. Contempt proceedings cannot be resorted to by a litigant with a view to obtaining relief in accordance with the order or decree in his favour but a serious note is to be taken of a disrespectful or disdainful attitude of a person bound by the decree or order with a view to uphold the majesty, authority and dignity of the Courts of Law and Justice. The refusal or failure of the Government or its servants concerned to take any action to reinstate a decree holder, who has obtained a declaration in his favour to the effect that the order of his dismissal was void, illegal and of no effect and to grant him all the benefits and privileges of his service flowing from that declaration, will have to be judged in each case in order to find out whether the person complained against has committed an offence of contempt of Court or not."

In **R.N. Dey and others v. Bhagyabati Pramanik and others, (2000)4 Supreme Court 400**, the Hon'ble Supreme Court, has held to the following effect:-

> "The weapon of contempt is not to be used in abundance or misused. Normally, it cannot be used for execution of the decree or implementation of an order for which alternative remedy in law is provided for. Discretion given to the court is to be exercised for maintenance of the court's dignity and majesty of law. Further, an aggrieved party has no right to insist that the court should exercise such jurisdiction as contempt is between a contemner and the court."

In **Rama Narang v. Ramesh Narang and another, AIR 2006 SC 1883**, the Hon'ble Supreme Court clarified that merely because an order or decree is executable, would not take away the Court's jurisdiction to deal with the matter under the Act provided the Court is satisfied that the violation of the order or decree is such, that if proved, it would warrant punishment under Section 13 of the Act. It was also held that whether the respondents should be held guilty of contempt is a question which must be left for decision, while disposing of the contempt petition on merits.

In the present case, the order passed by this Court is in exercise of its power of superintendence under Article 227 of the Constitution of India. The petitioner has the remedy to seek enforcement of the order in terms of the provisions of Order 39 Rule 2-A of the Code of Civil Procedure before the Court, where the suit is pending. Still further, the order in respect of which the grievance is made was passed only on 21.9.2007, whereas the present petition has been filed soon thereafter, without giving reasonable time to the respondents to comply with the order

or to seek their remedy in accordance with law.

Consequently, I do not find that any case for initiating the contempt proceedings is made out at this stage. Hence, the present petition is dismissed.

15-10-2007 (HEMANT GUPTA)
ds JUDGE